

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB-LFG

RIO CHAMA STREAM SYSTEM

Section 7, Cañones Creek

NOTICE AND ORDER TO SHOW CAUSE

TO ALL CLAIMANTS, KNOWN AND UNKNOWN, WHO CLAIM A RIGHT TO USE THE SURFACE OR UNDERGROUND WATERS OF THE CAÑONES CREEK SUBSECTION OF SECTION 7 OF THE RIO CHAMA STREAM SYSTEM

AND TO ALL OF THE FOLLOWING WHO CLAIM A RIGHT TO USE SURFACE WATER FOR IRRIGATION PURPOSES IN THE CAÑONES CREEK SUBSECTION OF SECTION 7 OF THE RIO CHAMA STREAM SYSTEM AND WHOSE NAMES APPEAR BELOW:

DAGGET DITCH NO. 1 **PRIORITY** **1902**

Defendants: E. Truman Caudill, Jane Caudill, Catherine Clemens, James R. Clemens, Kinslow-Herbert Living Trust, John D. Morrow, James H. Renken Irrevocable Trust B, Patty S. Terrell, Sherry D. Wingo, Turner A. Wingo

DAGGET DITCH NO. 2 **PRIORITY** **1902**

Defendants: Dale R. Elliott, Virginia V. Elliott, Patrick S. Hogan, Karam Living Trust, Patty S. Terrell

DAGGET DITCH NO. 3 **PRIORITY** **1902**

Defendants: Duncan Family Ltd. Partnership, Jim Ewbank, Orlinda Naranjo, M. Edwina Wood, Warren T. Wood

DAGGET DITCH NO. 4 **PRIORITY** 1902

Defendants: Jeb McNeil Binkley Trust, Margaret Burt Binkley Trust, Sargent Mac Gregor Binkley Trust, Jim Ewbank, Orlinda Naranjo

DAGGET DITCH NO. 5 **PRIORITY** 1902

Defendants: Karam Living Trust

GENTRY DITCH NO. 1 **PRIORITY** 1902

Defendants: Raleigh K. Gardenhire, Johnna Weaver

GENTRY DITCH NO. 2 **PRIORITY** 1902

Defendants: Patty S. Terrell

CAÑONES DITCH NO. 1 **PRIORITY** 1861

Defendants: El Barranco LLC, Gene H. Gurule, Juan F. Gurule, Antonio L. Martinez, Deborah L. Martinez, Eleuterio Martinez Jr., Ida Martinez, Johnny A. Martinez, Jose Antonio Martinez, Jose Onesimo Martinez Jr., Jose Orlando Martinez, Lizette M. Martinez, Lucille E. Martinez, Lynette Martinez, Manuel Martinez, Marcus J. Martinez, Michael A. Martinez, Paul Martinez, Raymond R. Martinez, Robert Martinez, Robert E. Martinez, Gonzalo H. Martinez Family Trust, Genevieve Mestas, Darlene Moya, Clorinda L. Nunez, Ramon R. Nunez, River Bend Ranch, LLC, Sadie Sanchez

CAÑONES DITCH NO. 2 **PRIORITY** 1861

Defendants: El Barranco LLC, Donald A. Gonzales, Mary Ellen Burns Gonzales, Deborah L. Martinez, Earl James Martinez, Eleuterio Martinez Jr., Lizette M. Martinez, Marcus J. Martinez, Michael A. Martinez, Gonzalo H. Martinez Family Trust, Clorinda L. Nunez, Ramon R. Nunez, River Bend Ranch, LLC

UNNAMED DITCH NO. 1 **PRIORITY** 1861

Defendants: Mary Ellen Burns Gonzales

UNNAMED DITCH NO. 2 **PRIORITY** **1861**

Defendants: Donald A. Gonzales, Mary Ellen Burns Gonzales

UNNAMED DITCH NO. 3 **PRIORITY** **1861**

Defendants: Charles E. Ezell, Dorothy W. Ezell, Maurice A. Ezell, Arta C. Smith, Leo L. Smith

UNNAMED DITCH NO. 4 **PRIORITY** **1861**

Defendants: Charles E. Ezell, Dorothy W. Ezell, Maurice A. Ezell, Arta C. Smith, Leo L. Smith

BARRANCO DITCH **PRIORITY** **1861**

Defendants: Elviria S. Abeyta, Jose M. Abeyta, El Barranco LLC, Benjamin A. Gallegos Jr., Frank A. Gallegos, John J. Gallegos, Mary Gallegos, Antonio Garcia, Cecilia Grimes, Deborah L. Martinez, Earl James Martinez, Eleuterio Martinez Jr., Lizette M. Martinez, Marcus J. Martinez, Michael A. Martinez, Patrick D. Martinez, Rose L. Martinez, Ted D. Martinez, Terry L. Martinez, Gonzalo H. Martinez Family Trust, River Bend Ranch, LLC, Larry E. Rivera, Cleofas Sanchez, Clorinda Sanchez, Jose A. Sanchez, Medardo Sanchez Jr., Miguel R. Sanchez, Sanchez Family Trust, Rita Trujillo, Cleo B. Valdez, Crystal H. Valdez, Roxanne H. Valdez

SANCHEZ Y CHAVEZ DITCH **PRIORITY** **1877**

Defendants: El Barranco LLC, Ursula Germaine Vicenti Gallegos, Cleofas Sanchez, Miguel R. Sanchez, Sanchez Family Trust

SARGENT CAÑONES DITCH **PRIORITY** **November 27, 1931**

Defendants: Edward L. Binkley III, Jeb McNeil Binkley Trust, Margaret Burt Binkley Trust, Sargent Mac Gregor Binkley, Diamond S Ranch, Rice Living Trust, Charles R. Sanders, Darlene Sanders, Derek Strauch,

NORTH CAÑONES DITCH **PRIORITY** **December 11, 1923**

Defendants: Charles E. Ezell, Dorothy W. Ezell, Maurice A. Ezell, Mary Ellen Burns Gonzales, Arta C. Smith, Leo L. Smith

H.N.D. DITCH

PRIORITY December 1, 1922

Defendants: El Barranco LLC, Mundy Ranch Inc.

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the priority date of your water right and ditch, or the priority dates for any other community or private ditch in the Cañones Subsection of Section 7 of the Rio Chama Stream System ("Cañones Subsection") as described above. The priority dates for the ditches listed above will apply to all individual irrigation water rights served by the ditches listed, unless you or other persons file objections. The priority dates for ditches listed above will also apply to a spring that serves as a source of water for irrigators under those ditches, and which is described on individual subfile orders filed with the Court. Defendants that have previously agreed to a priority date for their water rights in the Cañones Subsection in subfile orders filed with the Court may not object to the dates of their own water rights, but may file objections to the proposed determination of the priority dates of other water users.

In addition, you are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use in the Cañones Subsection for lands irrigated under pre-1907 ditches as described below:

- a. The weighted consumptive irrigation requirement (CIR) is 1.05 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 2.63 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 4.38 acre-feet per acre per annum.

The ditches in the Cañones Subsection to which the above amounts apply are all of the ditches identified above with the exception of the Sargent Cañones Ditch, North Cañones Ditch and H.N.D. Ditch.

You are hereby notified that you are required to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use on lands in the Cañones Subsection that are irrigated under final licenses issued by the Office of the State Engineer, as described below:

Sargent Cañones Ditch (OSE No. 1975):

- a. The weighted consumptive irrigation requirement (CIR) is 1.05 acre-feet per acre per annum.

- b. The farm delivery requirement (FDR) is 1.5 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 2.5 acre-feet per acre per annum.

North Cañones Ditch (OSE No. 1609):

- a. The weighted consumptive irrigation requirement (CIR) is 1.11 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 1.51 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 2.52 acre-feet per acre per annum.

H.N.D. Ditch (OSE No. 1544):

- a. The weighted consumptive irrigation requirement (CIR) is 1.05 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 1.3 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 2.17 acre-feet per acre per annum.

The term “Consumptive Irrigation Requirement” (“CIR”) refers to the quantity of water, expressed in acre-feet per acre per year, exclusive of effective precipitation, that is consumptively used by plants or is evaporated from the soil surface during one calendar year. The term “Farm Delivery Requirement” (“FDR”) refers to the quantity of water expressed in acre-feet per acre per year, exclusive of effective precipitation, delivered to the farm headgate or which is diverted from a source of water which originates on the farm itself, such as a well or spring, necessary to satisfy the consumptive irrigation requirements of crops grown on a farm in one calendar year. The “Project Diversion Requirement” (“PDR”) or off-farm diversion requirement is defined as the quantity of water, exclusive of effective precipitation, which is diverted from the stream or an off-farm source to satisfy the farm delivery requirement for one calendar year. The irrigation water requirements set forth above do not include diversion requirements associated with stock ponds or other impoundments determined to have valid water rights in these proceedings.

If you agree with the priority dates and irrigation water requirements described above, you do not need to take any action. If any objections are filed by any persons you may participate in the proceedings to resolve those objections. If no objections are filed, the Court will enter an order that recognizes the elements of the water rights for surface water irrigation use in the Cañones Subsection as described above. If you disagree, you must follow the instructions below.

This will be your only opportunity in these proceedings to object to the determination of priority dates or irrigation water requirements in the Cañones Subsection. Subsequent *inter se*

proceedings in the Cañones Subsection will not include the opportunity to object to those determinations.

IT IS THEREFORE ORDERED THAT if you object to any of the priority dates stated above, or to the irrigation water requirements for surface water irrigation use in the Cañones Subsection as stated above, you must file your objection with the Court, in person or by mail, **FOR RECEIPT NO LATER THAN December 15, 2011:**

United States District Court Clerk
333 Lomas Blvd. NW, Suite 270
Albuquerque, NM 87102

If you timely file an objection the Special Master will notify you of a mandatory scheduling and pretrial conference, where you will learn how objections will be heard by the Court. This will be your only opportunity to object to these elements of your water rights or any other water rights. If you fail to timely object and attend the scheduling and pretrial conference you may not raise objections in the future.

If you have any questions, call or write:

Edward G. Newville
Special Assistant Attorney General
Office of State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 867-7444 phone
(505) 867-2299 facsimile

or,

John W. Utton
Attorney for Asociación de Acéquias Norteñas de Rio Arriba
Sheehan & Sheehan, P.A.
P.O. Box 271
Albuquerque, NM 87103-0271
(505) 699-1445 telephone
(505) 842-8890 facsimile

BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE